

UTAH AIR QUALITY BOARD MEETING
July 11, 2007

FINAL MINUTES

I. Call to Order

Ernest Wessman called the meeting to order at 1:37 p.m.

Board members present:

Ernest Wessman	Jim Horrocks	Rick Sprott
Wayne Samuelson	Kathy Van Dame	Nan Bunker
Craig Petersen	Stead Burwell	Steve Sands (on conference call)

Excused: Darrell Smith

Executive Secretary: Cheryl Heying

II. Date of the Next Air Quality Board Meetings

August 1, 2007 and September 5, 2007.

III. Approval of the Minutes for June 6, 2007 Board Meeting

Ms. Van Dame made note of corrections to her statement on page 2 third paragraph from the bottom; change second "Board" to "science panel." On page 5 last paragraph; change "confined cattle operations" to "confined animal feeding operations (CAFO)." Mr. Wessman made note of grammatical corrections and text changes on pages 3 and 4. No other corrections by the Board.

- Wayne Samuelson made the motion to approve the minutes with changes proposed by Ms. Van Dame and Mr. Wessman. Kathy Van Dame seconded. The Board approved unanimously.

IV. Legal Requirements for Appointment of New Executive Secretary. Presented by Rick Sprott.

Mr. Sprott stated that it was announced at the last meeting that Cheryl Heying would be Acting Executive Secretary pending his confirmation by the Senate and therefore being able to legally appoint Ms. Heying as Division Director and with the Board's vote to Executive Secretary. Mr. Sprott's confirmation did take place and as the memo reflects, the Division of Air Quality Director and Executive Secretary of the Board really are two positions, but the Board and Department always had one person serve in both positions at the same time. In order to have Ms. Heying officially serve as the Executive Secretary, the Board needs to vote.

- Rick Sprott made the motion that the Board approve Cheryl Heying as the Executive Secretary of the Air Quality Board. Nan Bunker seconded. The Board approved unanimously.

V. Setting Date and Time for Electronic Meeting (Conference Call) to Establish Dates for Hearing IPSC and Sevier Power Appeals. Presented by Denise Chancellor.

Denise Chancellor, of the Attorney General's Office, stated as a preliminary matter it is understood the parties have agreed that the IGCC common issue should be tried on October 30, 2007, and that it would last one day, if that's amiable with the Board.

Mr. Wessman then asked members of the Board that had not recused themselves, if October 30, 2007, worked for hearing the matter on IGCC. Several Board members stated that date does not work for them.

Ms. Chancellor stated that should be taken as part of the scheduling conference that needs to be set. In addition, the following Board members must be on the conference call in order to constitute a forum to discuss the scheduling for the Sevier Power and IPSC appeals: Stead Burwell, Nan Bunker, James Horrocks, Craig Petersen, Wayne Samuelson, and Darrell Smith. Also, Fred Nelson would be back on July 16th so any time after that would be fine.

Mr. Wessman then asked Mr. Horrocks to coordinate the conference call; to which he agreed.

Mr. Horrocks suggested the tentative date of July 23, 2007, at 2:00 p.m. for the conference call. The date and time will be verified and a confirmation email will be sent out by the DAQ staff to those individuals needing to be involved in the conference call.

Mr. Wessman then stated that this is not a voting issue and the tentative date is set for the afternoon July 23, 2007, at 2:00 p.m. for the conference call.

VI. Approval of Notice of Further Proceedings for Request for Agency Action of Save Our Air and Resources (SOAR) and James Kennon and Dick Cumisky. Presented by Denise Chancellor.

Ms. Chancellor, of the Attorney General's Office, stated that the Notification of Further Proceedings is a procedural requirement to notify the parties that a petition has been received by Save Our Air Resources (SOAR) and James Kennon and Dick Cumisky. The petition mentions the response times that the Executive Secretary and Sevier Power have to the issue of standing. Those responses are due July 20, 2007. SOAR, Mr. Kennon or Mr. Cumisky may file a reply on July 27, 2007, and the Board will make a decision on granting intervention at the August board meeting. Ms. Chancellor stated this is a procedural matter and requests the Board approve sending out this notification.

Mr. Horrocks stated that since the next Board meeting is on August 1, 2007, and potentially the Attorney General's Office will be receiving SOAR and James Kennon and Dick Cumisky's reply on July 27, 2007, that Board members need to have the information available electronically. Ms. Chancellor stated that it will be requested to have it scanned and sent to the Board members electronically.

- Craig Petersen moved to approve the Notice for Further Proceedings for Request for Agency Action as stated in the agenda item. Wayne Samuelson seconded. The Board approved unanimously.

VII. Five-Year Review: R307-105 General Requirements: Emergency Controls. Presented by Dave McNeill.

Dave McNeill, SIP/Rules Section Manager of the Division of Air Quality, stated Utah Code 63.46a requires all state agencies to review each of their rules at least every fifth year to verify that the rules are still authorized by statute and necessary. The DAQ has completed the 5-year review for R307-105, General Requirements: Emergency Controls, and found that it is still authorized by Section 19-2-112 of

the Utah statute and required by 40 CFR 51.151 of federal law. Whenever EPA promulgates a new National Ambient Air Quality Standard, EPA is required to issue guidance on the emergency levels of the pollutant for which the new standard is developed. Following the issuance of that guidance, the states are required to revise their SIPs to reflect those levels. EPA notified the states last week that they have just started the process of developing guidance for the PM_{2.5} and 8-hour ozone standards for the emergency levels. When that guidance is completed, staff will begin the process of reviewing and revising, if needed, Section VII of the SIP and R307-105.

As a note, the 5-year review cycle is not affected by a revision to a rule. This has resulted in staff asking the Board to approve a rule revision one month and then a few months later, asking the Board to approve a 5-year review of the same rule. To avoid that situation, staff is now completing the 5-year review of a rule whenever it is revised by the Board if the 5-year review has not occurred recently. That review will be for the whole series to which the rule applies. For example, the Board will be looking at one of the 400 series rules and staff is going to ask the Board to also approve the 5-year review of the whole 400 series of rules. So if the series hasn't had a 5-year review recently then staff will do the 5-year review for the whole series at that time.

Staff recommends that the Board approve the attached form to be filed with the Division of Administrative Rules to continue R307-105.

- Kathy Van Dame moved to approve the 5-year review on R307-105. Nan Bunker seconded. The Board approved unanimously.

VIII. Final Adoption and Five-Year Review: R307-121 General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Tax Credits. Presented by Glade Sowards.

Glade Sowards, Energy Program Coordinator of the Division of Air Quality, stated on April 4, 2007, a revision to R307-121 was proposed for public comment. No written or oral comments were received.

Staff recommends that R307-121 be adopted as proposed and that the Board approve the attached 5-year review form to be filed with the Division of Administrative Rules.

- Jim Horrocks made the motion to adopt R307-121 and also approve the 5-year review form. Nan Bunker seconded. The Board approved unanimously.

IX. Final Adoption: Repeal R307-122 General Requirements: Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels. Presented by Mat Carlile.

Mat Carlile, Rules Coordinator of the Division of Air Quality, stated on April 4, 2007, R307-122 was proposed for public comment. The Board proposed to repeal R307-122 because it was no longer authorized under Utah Code Sections 59-10-128 and 59-7-606.

Staff recommends that R307-122 be repealed as proposed.

- Kathy Van Dame moved to repeal R307-122. Wayne Samuelson seconded. The Board approved unanimously.

X. Final Adoption: R307-130-4 Options. Presented by Mat Carlile.

Mat Carlile, Rules Coordinator of the Division of Air Quality, stated on March 14, 2007, R307-130-4 was proposed for public comment. A public hearing was held on April 18, 2007; no one came. No written or oral comments were received.

Staff recommends that R307-130-4 be adopted as proposed.

- Kathy Van Dame moved to adopt R307-130-4. Nan Bunker seconded. The Board approved unanimously.

XI. Final Adoption: R307-405 Permits: Major Sources in Attainment or Unclassified Areas (PSD); and Five-Year Review of the 400 Series of Rules. Presented by Colleen Delaney.

Colleen Delaney, Environmental Scientist of the Division of Air Quality, stated on April 4, 2007, R307-405 was proposed for public comment to update the incorporation by reference to the most recent version of the CFR. A public hearing was held on May 23, 2007. No written or oral comments were received.

Staff recommends that R307-405 be adopted with the minor amendment shown in the attachment to specify the July 1, 2006, version of the CFR for one definition.

As a separate action, staff recommends that the Board continue the permitting rules in the 400 series by approving the 5-year review forms to be filed with the Division of Administrative Rules. No comments have been received on these rules since the last 5-year review.

Mr. Horrocks asked for the location in the attachment of the definition of the rule to be added.

Ms. Delaney explained that it wasn't a definition that was to be added, but a reference to the version of the CFR. The change in the proposed rule of page 20 in the attachment would read, "Heat input" means input as defined in 40 CFR 52.01 (g), effective July 1, 2006.

- Jim Horrocks made the motion to adopt R307-405 with the addition as noted; also to include the 5-year review of the 400 series of the rules. Rick Sprott seconded. The Board approved unanimously.

XII. Utah Physicians for Healthy Environment.

Ms. Heying stated that a letter was received from Utah Physicians for Healthy Environment in which the physicians acknowledged the extensive work being done in the national and international level reviewing the PM2.5 standard and recognizes that the numerical limits have been controversial. It is recommended that the Board embark on this process methodically and meet with the physicians to explain the processes that the state goes through to identify and adopt health-based standards. The Board would like to sit down with the physicians and others that have expressed an interest to go through what the Board does, how the Division makes rules, and what those rules are based on. Before that, Fred Nelson, counsel to the Board, will be consulted to make sure that the Board understands the process better and how best to proceed. Ms. Heying recognizes that it's going to be an involved discussion and it would be best if it is understood how each of us is operating, what we are interested in finding out, and how to proceed.

Mr. Wessman stated that it is his understanding the Board has approved this formal process which we are proceeding to try to get set up. In the meantime, there's been interest on both sides to have

informal discussions to try to clarify issues and achieve a common understanding of what is going on. John Veranth suggested that the Board do a stakeholder process upfront before the formal process. Mr. Wessman believes the Board needs to confer with Fred Nelson first to determine whether the Board can do that under the statute and just how it all fits together. This agenda item is a status report right now.

Mr. Sprott stated that the Board has voted previously on moving forward with the process, but one thing that has been clear in discussions is that some of the requests and proposals made earlier by the physicians, upon which the Board based its plan to go forward, may have been based on limited information. Mr. Sprott acknowledged the air quality management program in the United States is complex and he believes a series of meetings with the physicians and the Division is desirable. He doesn't want to embark on a route and then find this is an entirely different exercise than what was contemplated early on.

Mr. Sprott gave as an example the letter from the physicians requesting that the Division reevaluate the advisory levels. Current advisories are called well below the health standard. Mr. Sprott doesn't want to get into a panel discussing that process when it may not be a problem in the eyes of the physicians group. He believes it's important that everybody have benefit of all the information so that at the start of the process, it can be as tightly defined and focused as possible. The bottom line is to consult with Fred Nelson and also to define the problems or questions that we are trying to resolve.

Mr. Wessman stated that it's important to emphasize that the Board is not putting anything on the back burner, but is trying to move through the preliminary stages to make sure the Board can proceed expeditiously and efficiently.

Dr. Jerry Ross, of Utah Physicians for Healthy Environment, agreed with Mr. Wessman's and Mr. Sprott's statements about the process of getting some informal discussions going. There is dialog that is needed to further define the issues.

Mr. Wessman then summarized an email that was recently received from Utah Physicians for Healthy Environment and that the Board is proceeding along to meet informally to better clarify the issues and achieve a more common understanding of the air quality processes and the issues that are of concern. Nothing is being put on the back burner with regard to the independent panel, but the Board wants to hold some discussions before the Board begins with the independent panel. Fred Nelson, counsel to the Board, needs to advise the Board with regard to legal authority to make sure the Board stays compliant with the statute and to address issues with regard to procedural matters. This is an informational update for Board members. No action item with regard to changing the schedule at this time because the schedule that was proposed and approved by the Board was an estimated schedule.

Ms. Heying added that the Board intends to set up meetings first with Fred Nelson to make sure the processes are within the bounds. Then the Board may move forward with informal discussions about the processes with the Utah Physicians for Healthy Utah, Mr. Veranth, and the Board members to give them an update of what is happening.

Dr. Moench, of Utah Physicians for Healthy Environment, stated their organization, as well as Utah Moms for Clean Air, have been besieged with requests to do something about the recent air quality situation. They are anxious to do something about it but they are not the policy makers. Dr. Moench wants to pass on to the Board the public's concern. One suggestion for the planned informal discussions is ways to respond under "emergency air quality situations."

Mr. Wessman asked Ms. Heying if this could be arranged to which she agreed.

Dr. Ross added as background information for those present that scientific evidence is showing that air pollution in general is far more dangerous than previously realized. As physicians, they feel that current national legislation does not adequately protect Utahans and they would like to work with the Air Quality Board and look at possible changes to legislation. Utah circumstances of high mountain valleys and inversions are not the same for regulations that might apply to the eastern seaboard of the United States.

Mr. Wessman then recognized an individual, Norm Tavish, who had requested to make a public comment to the Board.

Norm Tavish, of Glendale Community Council, expressed concern with approval given to allow truck stops to be built near residential areas and the emissions released from idling diesels. Mr. Tavish introduced literature on generators that some truck stops have installed to cut down on idling diesels. His presence today was to inform the public of a movement his group has started in petitioning the Salt Lake City Council to change ordinance which allows truck stops to be built in residential areas.

Ms. Van Dame asked if anti-idling truck stop usage has been changing over time.

Mr. Tavish stated that it is unknown how many truck drivers hook up to the generators. There are only about 30 to 40 generators available at the SAPP Bros. lot and when that is full, trucks park along city streets and idle all night long.

Ms. Van Dame asked if there are air regulations about idling diesels.

Ms. Heying stated that there are regulations and the DAQ has been in contact with Salt Lake Valley Health Department, which has an ordinance for anti-idling. Enforcement is difficult; getting inspectors out in the field is an issue. The DAQ has pushed hard to get information in the news so people understand what's going on and the alternatives available.

Mr. Tavish asked about free government grants offered prior and if they were turned down.

Mr. Horrocks stated in the first major installations that it's not generators but an electrical hookup that has recently been installed and was federally funded under Congestion Mitigation Air Quality (CMAQ) funds, which is administered by Wasatch Front Regional Council. It was such a success and identifying additional locations and getting funding to those locations is being looked at.

Ms. Heying added that the DAQ has been supportive of the congestion mitigation fund money being used for that and will continue to do so. It is her understanding in discussions with SAPP Bros. that the hookups are being used. The DAQ needs to coordinate with Salt Lake Valley Health to make sure they understand the problem of idling trucks on city streets.

XIII. Informational Items.

A. Compliance. Presented by Jay Morris and Harold Burge.

B. Air Toxics. Presented by Robert Ford.

C. Monitoring. Presented by Bob Dalley.

Mr. Dalley updated the Board on the latest air monitoring data with special notice of the high PM_{2.5} values because the impact of fireworks at sites on July 4th.

Mr. Tavish asked why the PM2.5 levels were higher in North Salt Lake on the July 5th.

Ms. Heying explained the new monitor that registered PM2.5 at 190 was caused by firework events being set off around the monitor.

Mr. Dalley added that it is in a neighborhood and so smoke from ground level fireworks was shown by monitoring data. Also, that smoke from lofting commercial fireworks was so dense and it's a tremendous impact on the particulate load in the atmosphere.

Ms. Heying stated that she would like to point out that with the fireworks, staff will be flagging those events, flagging events with the smoke intrusion into the valley, and the interference with ozone. Staff is collecting information right now that shows the impact of wildfires. It's not just Utah fires that are of impact right now but fires in Idaho, Nevada, and California.

Ms. Van Dame commended DAQ on changes that they've made on the air monitoring webpage with forecasting and current conditions displayed by the numbers. She also acknowledged the notice about fireworks and its health impacts. Ms. Van Dame inquired about a third category of the webpage as mentioned at a previous meeting and its status.

Mr. Dalley stated that it's getting closer to being accessible to the public. Ms. Heying then stated that it is a DAQ priority right now.

Meeting was adjourned at 2:41 p.m.